

# CLAIMS RESOLUTION TRIBUNAL

---

In re Holocaust Victim Assets Litigation  
Case No. CV96-4849

## **Certified Award**

to Claimant [REDACTED1]  
also acting on behalf of [REDACTED], [REDACTED]and [REDACTED]

and

to Claimant [REDACTED 2]  
also acting on behalf of [REDACTED]  
represented by [REDACTED]

## **in re Account of Ignaz Rosenberg**

Claim Numbers: 205966/PY; 215356/PY; 220565/PY

Award Amount: 156,000.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together “the Claimants”) to the account of Ignaz Rosenberg, and the claim of [REDACTED 1] to the account of Ilonka Rosenberg. This Award is to the account of Ignaz Rosenberg (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case Claimant [REDACTED 1] has, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

## **Information Provided by the Claimants**

Claimant [REDACTED 1] submitted two Claim Forms identifying the Account Owner as his grandfather, Ignaz Rosenberg, who was born in Beocin, Yugoslavia, and was married to Ilonka Rosenberg née Kohn. According to Claimant [REDACTED 1], Ignaz Rosenberg was the managing director of a cement factory. Claimant [REDACTED 1] further stated that this factory, which Claimant [REDACTED 2] identified as *Zementfabrik Beocinska Fabrika CEMENTA*, had some connection with a Swiss company named *Cementia Holding*, and that his grandfather owned some shares in this company, which Claimant [REDACTED 1]’s mother, [REDACTED], inherited. The Claimant stated that Ignaz Rosenberg died in 1931, while Ilonka Rosenberg was presumed to have died in a concentration camp. In support of his claim, Claimant [REDACTED 1] submitted his own birth certificate, on which it is indicated that his

mother's parents were Ignaz and Ilonka Rosenberg of Beocin, as well as the death certificate of his uncle [REDACTED], which indicates that his uncle's parents were Ignaz Rosenberg and Ilonka Rosenberg née Kohn. Claimant [REDACTED 1] indicated that he was born on 25 January 1933 in Prague, Czechoslovakia, while his brother and sister, whom he represents in these proceedings, [REDACTED] and [REDACTED] were born on 21 April 1935 in Beocin, and on 20 August 1945 in Harpenden, Herts, the United Kingdom, respectively. Claimant [REDACTED 1]'s aunt, the wife of [REDACTED], [REDACTED], whom Claimant [REDACTED 1] also represents, was born on 29 May 1927 in Braunschweig, Germany.

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as the father of a close family friend, [REDACTED]. According to Claimant [REDACTED 2], Ignaz Rosenberg, who was Jewish, died in 1931 in Beocin and his wife, Ilonka Rosenberg, inherited his assets. Claimant [REDACTED 2] stated that Ilonka Rosenberg was a signatory to the account and that she was killed in Auschwitz. He stated further that the three sons of Ignaz Rosenberg were held as prisoners-of-war in Usnabrück in Germany, and that the daughter of Ignaz Rosenberg, [REDACTED], was forced to flee to England. Claimant [REDACTED 2] asserted that he and his sister, [REDACTED], whom he represents, are the legal heirs of [REDACTED], who was the widow of [REDACTED], the son of Ignaz Rosenberg, according to [REDACTED]'s will dated 2 June 1994, which has been submitted in support of his claim. Other documents submitted in support of Claimant [REDACTED 2]'s claim include the death certificate of Ilonka Rosenberg and a sworn statement from [REDACTED], a woman of Israeli citizenship who had previously lived in Beocin and was acquainted with Ignaz Rosenberg and his family. Claimant [REDACTED 2] indicated that he was born on 29 June 1962 in Haifa, Israel, while his sister, [REDACTED], was born on 5 June 1964, also in Haifa.

### **Information Available in the Bank Records**

The bank records consist of a power of attorney form signed on 24 October 1929 and printouts from the Bank's database. According to these records, the Account Owner was Ignaz Rosenberg and the Power of Attorney Holder was Ilonka Rosenberg née Kohn, the Account Owner's wife, both from Beocin, Yugoslavia. The bank records indicate that the Account Owner held a custody account.<sup>1</sup> The bank records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account.

The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the bank records that the Account Owner or his heirs closed the account and received the proceeds themselves.

---

<sup>1</sup> The bank records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

## **The CRT's Analysis**

### Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner and the Power of Attorney Holder. Their grandparents' names match the published names of the Account Owner and the Power of Attorney Holder. The Claimants identified the Account Owner's residence in Beocin, Yugoslavia, which matches published information about the Account Owner contained in the bank records. The Claimants also identified that the Account Owner and Power of Attorney Holder were husband and wife, which matches unpublished information in the bank records.

### Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 2] stated that the Account Owner was Jewish and died in 1931 before the Nazis invaded Yugoslavia. However, he stated further that the Account Owner's heir, who was the Power of Attorney Holder and who was also Jewish, was transported to Auschwitz in 1944, where she was killed.

### The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting a family tree demonstrating that he is the grandson of the Account Owner. In the case of [REDACTED], who is represented by Claimant [REDACTED 1], Claimant [REDACTED 1] has plausibly demonstrated that she is the daughter-in-law of the Account Owner by submitting her marriage certificate (she was married to the Account Owner's son, [REDACTED]). As indicated above, Claimant [REDACTED 2] stated that he, together with his sister [REDACTED], are the heirs to the estate of [REDACTED], who was the wife of [REDACTED] and the daughter-in-law of the Account Owner.

Although Claimant [REDACTED 2] and his sister have been named as heirs under [REDACTED]'s will, her will is not that of the Account Owner, therefore, the general principles of distribution under Article 29 of the Rules Governing the Claims Resolution Process (the "Rules") shall apply. As Claimant [REDACTED 1] and his siblings, whom he represents in these proceedings, are related to the Account Owner by blood, they have a better entitlement than does Claimant [REDACTED 2], who is not related to the Account Owner either by blood or by marriage. With respect to [REDACTED], represented by Claimant [REDACTED 1], pursuant to Article 29(f) of the Rules, if a child of the Account Owner is deceased, that child's spouse shall be considered a child of the Account Owner if none of that child's descendants have submitted a claim. As [REDACTED]'s husband, [REDACTED] (son of the Account Owner), is

deceased, and she is childless, she is therefore considered a child of the Account Owner for the purposes of distribution, and therefore also has a better entitlement to the Award than Claimant [REDACTED 2] and his sister.

#### The Issue of Who Received the Proceeds

Based on its precedent and the Rules, the CRT applies presumptions to determine whether Account Owners or their heirs received the proceeds of their accounts. These presumptions are contained in Appendix A.<sup>2</sup> The CRT concludes in this case that Presumptions (h) and (j) apply and it is therefore plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder or their heirs.

#### Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1]. First, the claim is admissible in accordance with the criteria contained in Article 23 of the Rules Governing the Claims Resolution Process (the “Rules”). Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his grandfather, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

#### Amount of the Award

Pursuant to Article 35 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount of 156,000.00 Swiss Francs.

Article 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the claimant shall be 65% of the Certified Award, and the claimant may receive a second payment of up to 35% of the Certified Award when so determined by the Court. In this case, the CRT has used the value presumptions of Article 35 of the Rules to calculate the account values and 65% of the total award amount is 101,400.00 Swiss Francs.

#### Division of the Award

As indicated above, Claimant [REDACTED 1] and his siblings and aunt whom he represents, have a better entitlement to the account than Claimant [REDACTED 2] and his sister [REDACTED].

---

<sup>2</sup> An expanded version of Appendix A appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

According to Article 29 of the Rules, an award will be made in favor of any descendants of the Account Owner who have submitted claims, in equal shares by representation. As indicated above, [REDACTED] is regarded as a child of the Account Owner by virtue of Article 29(f) of the Rules and accordingly receives one-half of any payment made to Claimant [REDACTED 1]. As Claimant [REDACTED 1], his brother, [REDACTED], and his sister, [REDACTED] are all children of [REDACTED] (daughter of the Account Owner), they are collectively entitled to the other half and are accordingly each to receive one-sixth of any payment made to Claimant [REDACTED 1].

### **Scope of the Award**

The Claimants should be aware that, pursuant to Article 25 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

### **Certification of the Award**

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
October 3, 2002

## APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:<sup>1</sup>

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner was a child at the time of the Second World War;
- h) the Account Owners and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners and heirs because of the banks' concerns regarding double liability;<sup>2</sup>
- i) the Account Owners or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners or their heirs received the proceeds of the Account.<sup>3</sup>

---

<sup>1</sup> See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia

---

and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

<sup>2</sup> See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

<sup>3</sup> As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).